

THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION

Serial Number: 10/017,413
Group Art Unit: 2633
Title: METHODS FOR EQUALIZATION OF A DWDM
SYSTEM
Filing Date: December 18, 2001
Inventors: Paul Marsh et al.
Agent's Ref: 71493-973

June 18, 2002

U.S. Commissioner of Patents and Trademarks
U.S. Patent and Trademark Office
Washington, D.C.
20231 U.S.A

REQUEST FOR RECONSIDERATION OF PETITION
UNDER 37 C.F.R. 1.47(a) to allow a first
inventor to make an application on behalf of both
himself and an omitted inventor because the
omitted inventor refuses to join in the above
identified application

Sir:

1. In accordance with the provisions of 37 CFR. 1.47(a), the Applicant petitions the Commissioner to allow inventors (Paul Marsh and Gerard Gobeil) to make this application on behalf of themselves and an omitted inventor (Jeffrey Emery) because the omitted inventor has been uncooperative in signing the oath/declaration.
2. A partially executed "Declaration for Patent Application and Power of Attorney" in connection with

the above identified application was filed with the application. The Declaration and an Assignment were signed by Mr. Paul Marsh and Mr. Gerard Gobeil. Mr. Emery's signature is missing from the Declaration and from the Assignment because he has been uncooperative in signing and returning the documents.

Proof of the Pertinent Facts

3. Jeffrey K. Emery signed and submitted an agreement relating to intellectual property and confidentiality on June 12th, 1990 at which time he was an employee of Nortel Networks Limited. As an employee, he was under an obligation to assign to Nortel Networks Limited all rights in any invention made during the course of his employment. A copy of this document is attached as Exhibit "A".
4. Smart & Biggar, the firm with which I am associated was appointed as Agent to represent the Applicants in the preparation of a United States Patent Application entitled METHODS FOR EQUALIZATION OF A DWDM SYSTEM, which was subsequently filed December 18, 2001 and given Serial Number 10/017,413 ("the Application"), and which claimed priority from provisional application 60/258,356 with partially executed documents.
5. On February 9, 2001, William Petrie formerly in the employ of smart & Biggar sent a first set of documents to the inventor including the specification, declaration and drawings. Please see attached Exhibit

B which is a copy of his cover letter from our file.
Receipt of this package was confirmed, please see
Declaration of Chris MacMillan attached hereto.

6. Christopher MacMillan, Ottawa Office Manager of Smart & Biggar, has made attempts to have Mr. Emery execute the documents as attested in his declaration attached hereto.
7. Angela Armstrong-Baker, a Patents Coordinator at Smart & Biggar has made attempts to have Mr. Emery execute the documents as outlined in her declaration attached hereto.
8. I sent a final letter to the inventor June 3, 2002 by courier indicating if the forms were not returned to us by June 14, 2002, this would constitute refusal by conduct. See my declaration attached hereto.

The last known address of the omitted inventor


9. The last known address of the omitted inventor, Jeff Emery, as of June 3, 2002 is:
51 Merner Avenue,
Nepean, Ontario.
Canada K2J 3Z3

Relief Sought

10. Consequently, the Applicant petitions the Commissioner to allow inventors (Paul Marsh and Gerard Gobeil) to make this Application on behalf of themselves and the

omitted inventor (Jeff Emery). Such Action is necessary to preserve the rights of Nortel Networks Limited as failure to proceed could result in delay of issuance of the patent.

Respectfully submitted,


Allan Brett, Reg. No. 40,476
Agent for the Applicant

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